

4. In both the Wells Response and presentation, counsel for the Magna Defendants explained why Zirk de Maison/Engelbrecht's ("Zirk's") claims concerning the Magna Defendants' participation in his Lustros fraud were not credible.

5. During the Wells process, counsel for Manuel requested the FBI Forms 302 ("302s") memorializing interviews of Zirk. The SEC declined to provide those 302s, or even excerpts of them, during the Wells process, even though the SEC had access to the 302s. This Court subsequently ruled that the SEC and DOJ conducted a joint investigation and directed DOJ to produce the 302s to the defense, redacted only to delete references to an individual named Ken Eade. *See* Dkt. No. 86.

6. Counsel for Manuel have reviewed the emails produced by the SEC, and have not found a single email where any representative of Lustros communicated to Manuel or Magna that they were backdating the note or assignment in the first Lustros transaction.

7. Based upon the documents produced in this case, counsel for Manuel understand that Zirk has engaged with the government through phone calls, proffers, and depositions at least 18 times.

8. The cellular phone records of Marc Manuel (SEC-SASON-001021755; *see* ¶ 31, *infra*) and Zirk are the sole records of calls between Manuel and Zirk produced by the SEC in this case prior to the first Lustros transaction.

9. Attached as Exhibit 1 are true and correct excerpts of the transcript for the deposition of Marc Manuel, which was taken by SEC staff on June 13, 2021 in this litigation.

10. Attached as Exhibit 2 are compiled excerpts from the transcript of the investigative testimony of Ari Sason, which was taken by SEC staff on May 16, 2018 in the investigation preceding this litigation, and which was produced by the SEC in this case.

11. Attached as Exhibit 3 is a true and correct copy of SEC-SASON-000404973, which was produced by the SEC in this case.

12. Attached as Exhibit 4 are true and correct excerpts of the transcript for the deposition of James Alfaro, which was taken by SEC staff on December 8, 2020 in this litigation.

13. Attached as Exhibit 5 is a true and correct copy of SEC-SASON-000526549, which was produced by the SEC in this case.

14. Attached as Exhibit 6 are a true and correct copies of SEC-SASON-000519829 and SEC-SASON-000519830, which were produced by the SEC in this case.

15. Attached as Exhibit 7 is a true and correct copy of SEC-SASON-000010108, which was produced by the SEC in this case.

16. Attached as Exhibit 8 is a true and correct copy of SEC-SASON-000000268, which was produced by the SEC in this case.

17. Attached as Exhibit 9 are true and correct excerpts of the transcript for the deposition of Gonzalo Troncoso, which was taken by SEC staff on March 24, 2021 in this litigation.

18. Attached as Exhibit 10 are true and correct excerpts of the transcript for the deposition of Larry Zielke, which was taken by counsel for Marc Manuel on March 16, 2021 in this litigation.

19. Attached as Exhibit 11 is a true and correct copy of SEC-SASON-000270292, which was produced by the SEC in this case.

20. Attached as Exhibit 12 are true and correct copies of SEC-SASON-000283603 and SEC-SASON-000283604, which were produced by the SEC in this case.

21. Attached as Exhibit 13 are true and correct copies of SEC-SASON-000270291 and SEC-SASON-000270294, which were produced by the SEC in this case.

22. Attached as Exhibit 14 is a true and correct copy of SEC-SASON-000526509, which was produced by the SEC in this case.

23. Attached as Exhibit 15 are true and correct excerpts of the transcript for the deposition of Ari Sason, which was taken by SEC staff on September 28, 2021 in this litigation.

24. Attached as Exhibit 16 is a true and correct copy of SEC-SASON-000273232, which was produced by the SEC in this case.

25. Attached as Exhibit 17 are true and correct copies of SEC-SASON-000270297, SEC-SASON-000270298, SEC-SASON-000270299, and SEC-SASON-000270303, which were produced by the SEC in this case.

26. Attached as Exhibit 18 are true and correct copies of SEC-SASON-000010086, SEC-SASON-000010088, SEC-SASON-000010092, and SEC-SASON-000010093, which were produced by the SEC in this case.

27. Attached as Exhibit 19 is a true and correct copy of SEC-SASON-000000268, which was produced by the SEC in this case.

28. Attached as Exhibit 20 are true and correct copies of SEC-SASON-000270304, SEC-SASON-000270305, and SEC-SASON-000270307, which were produced by the SEC in this case.

29. Attached as Exhibit 21 are true and correct copies of SEC-SASON-000270316, SEC-SASON-000270317, SEC-SASON-000270318, and SEC-SASON-000270320, which were produced by the SEC in this case.

30. Attached as Exhibit 22 is a true and correct copy of SEC-SASON-000283541, which was produced by the SEC in this case.

31. Attached as Exhibit 23 is a true and correct excerpt of SEC-SASON-001021755, which was produced by the SEC in this case.

32. Attached as Exhibit 24 is a true and correct copy of SEC-SASON-000270324, which was produced by the SEC in this case.

33. Attached as Exhibit 25 are true and correct excerpts of the transcript for the deposition of Izak Zirk de Maison/Engelbrecht, which was taken by counsel for Marc Manuel and the SEC on June 22-23, 2021 in this litigation.

34. Attached as Exhibit 26 is a true and correct copy of SEC-SASON-000000284, which was produced by the SEC in this case.

35. Attached as Exhibit 27 is a true and correct copy of SEC-SASON-000269967, which was produced by the SEC in this case.

36. Attached as Exhibit 28 is a true and correct copy of SEC-SASON-000000271, which was produced by the SEC in this case.

37. Attached as Exhibit 29 are true and correct copies of SEC-SASON-000270222, SEC-SASON-000270224, SEC-SASON-000270226, SEC-SASON-000270236, and SEC-SASON-000270237, which were produced by the SEC in this case.

38. Attached as Exhibit 30 are compiled excerpts from the transcript of the investigative testimony of Matthew Turlip, which was taken by SEC staff on January 26 and March 24, 2017 in the investigation preceding this litigation, and which was produced by the SEC in this case.

39. Attached as Exhibit 31 is a true and correct copy of SEC-SASON-000283497, which was produced by the SEC in this case.

40. Attached as Exhibit 32 are compiled excerpts from the transcript of the investigative testimony of Andrew Reggev, which was taken by SEC staff on April 18, 2018 in the investigation preceding this litigation, and which was produced by the SEC in this case.

41. Attached as Exhibit 33 is a true and correct copy of SEC-SASON-000270236, which was produced by the SEC in this case.

42. Attached as Exhibit 34 is a true and correct copy of SEC-SASON-000271219, which was produced by the SEC in this case.

43. Attached as Exhibit 35 are true and correct excerpts of the transcript for the deposition of Trisha Malone, which was taken by SEC staff on February 10, 2021 in this litigation.

44. Attached as Exhibit 36 is a true and correct copy of SEC-SASON-000000214, which was produced by the SEC in this case.

45. Attached as Exhibit 37 is a true and correct copy of SEC-SASON-000009851, which was produced by the SEC in this case.

46. Attached as Exhibit 38 is a true and correct copy of SEC-SASON-000266482 through SEC-SASON-000266544, which was produced by the SEC in this case. SEC-SASON-000266501 was only produced as a native Microsoft Excel file. A four-page PDF copy of that document has been inserted after the page marked SEC-SASON-000266501, and bears no Bates number.

47. Attached as Exhibit 39 is a true and correct copy of SEC-SASON-000007750, which was produced by the SEC in this case.

48. Attached as Exhibit 40 is a true and correct copy of SEC-SASON-000269659 through SEC-SASON-000269672, which was produced by the SEC in this case.

49. Attached as Exhibit 41 are true and correct excerpts of the transcript for the deposition of Margaret Jameson, which was taken by SEC staff on December 17, 2020 in this litigation.

50. Attached as Exhibit 42 is a true and correct copy of SEC-SASON-000039997, which was produced by the SEC in this case.

51. Attached as Exhibit 43 is a true and correct copy of SEC-SASON-000269882 through SEC-SASON-000269883, which was produced by the SEC in this case.

52. Attached as Exhibit 44 is a true and correct copy of SEC-SASON-000272979, which was produced by the SEC in this case.

53. Attached as Exhibit 45 is a true and correct copy of the Form 10-K filed by Lustros, Inc. on April 14, 2013, which was downloaded from the SEC's EDGAR service on June 16, 2022.

54. Attached as Exhibit 46 is a true and correct copy of SEC-SASON-000275061, which was produced by the SEC in this case.

55. Attached as Exhibit 47 is a true and correct copy of SEC-SASON-004456122, which was produced by the SEC in this case.

56. Attached as Exhibit 48 is a true and correct copy of SEC-SASON-000311342, which was produced by the SEC in this case.

57. Attached as Exhibit 49 is a true and correct copy of SEC-SASON-000017654, which was produced by the SEC in this case.

58. Attached as Exhibit 50 is a true and correct copy of SEC-SASON-000017820, which was produced by the SEC in this case.

59. Attached as Exhibit 51 is a true and correct copy of SEC-SASON-000174833 through SEC-SASON-000174843, which was produced by the SEC in this case.

60. Attached as Exhibit 52 is a true and correct copy of SEC-SASON-000311250, which was produced by the SEC in this case.

61. Attached as Exhibit 53 is a true and correct copy of SEC-SASON-000311109, which was produced by the SEC in this case.

62. Attached as Exhibit 54 is a true and correct copy of SEC-SASON-000008346, which was produced by the SEC in this case.

63. Attached as Exhibit 55 is a true and correct copy of SEC-SASON-000007659, which was produced by the SEC in this case.

64. Attached as Exhibit 56 is a true and correct copy of SEC-SASON-000007662, which was produced by the SEC in this case.

65. Attached as Exhibit 57 are true and correct excerpts of Zirk's trial testimony in *United States v. Talman Harris*, Case No. 1:15-CR-335 (BYP) (N.D. Ohio), ECF No. 238.

66. Attached as Exhibit 58 is a true and correct copy of the 2016 U.S. Sentencing Guidelines Manual Sentencing Table, downloaded from https://www.ussc.gov/sites/default/files/pdf/guidelines-manual/2016/Sentencing_Table.pdf on June 3, 2022.

67. Attached as Exhibit 59 is a true and correct copy of the Declaration of FBI Supervisory Special Agent Milan Kosanovich, with its attached exhibits (FBI Forms FD-302 recording proffers with Zirk on November 19, 2014 (Ex. A), December 8, 2014 (Ex. B), January 12, 2015 (Ex. C), February 17, 2015 (Ex. D), and July 17, 2015 (Ex. E)).

68. Attached as Exhibit 60 is a true and correct copy of SEC-SASON-008769948, which was produced by the SEC in this case.

69. Attached as Exhibit 61 is Zirk's Declaration in *SEC v. Jason Cope, et al.*, Case No. 14 Civ. 7575 (DLC) (S.D.N.Y.), ECF No. 204-1.

70. Attached as Exhibit 62 is a true and correct copy of SEC-SASON-005795965, which was produced by the SEC in this case.

71. Attached as Exhibit 63 is a true and correct copy of SEC-SASON-005802731, which was produced by the SEC in this case.

72. Attached as Exhibit 64 are compiled excerpts from the transcript of the investigative testimony of Zirk, which was taken by SEC staff on December 5, 2016 for *In the Matter of Magna Group, LLC* (NY-09252), and which was produced by the SEC in this case.

73. Attached as Exhibit 65 is a true and correct copy of the SEC's Second Amended Responses to Defendant Marc Manuel's Second Requests for Admission in this case.

74. Attached as Exhibit 66 is a true and correct copy of ManuelTouhyFBI0049, which was produced by the Federal Bureau of Investigation pursuant to counsel for Manuel's *Touhy* request.

75. Attached as Exhibit 67 is a true and correct copy of SEC-SASON-000007910, which was produced by the SEC in this case.

76. Attached as Exhibit 68 is a true and correct copy of USAManuelTouhy003, which was produced by the U.S. Attorney's Office for the Southern District of New York pursuant to counsel for Manuel's *Touhy* request.

77. Attached as Exhibit 69 is a true and correct copy of USAManuelTouhy001, which was produced by the U.S. Attorney's Office for the Southern District of New York pursuant to counsel for Manuel's *Touhy* request.

78. Attached as Exhibit 70 is a true and correct copy of SEC-SASON2-001216640, which was produced by the SEC in this case.

79. Attached as Exhibit 71 is a true and correct copy of SEC-SASON2-001048066, which was produced by the SEC in this case.

80. Attached as Exhibit 72 is a true and correct copy of SEC-SASON2-001057067, which was produced by the SEC in this case.

81. Attached as Exhibit 73 is a true and correct copy of SEC-SASON2-001216640, which was produced by the SEC in this case.

82. Attached as Exhibit 74 is a true and correct copy of SEC-SASON2-001056528, which was produced by the SEC in this case.

83. Attached as Exhibit 75 is a true and correct copy of SEC-SASON-000031665, which was produced by the SEC in this case.

84. Attached as Exhibit 76 are compiled excerpts from the transcript of the investigative testimony of Joshua Sason, which was taken by SEC staff on June 18, 2018 in the investigation preceding this litigation, and which was produced by the SEC in this case.

85. Attached as Exhibit 77 are true and correct excerpts of the transcript for the deposition of Joshua Sason, which was taken by SEC staff on October 29, 2021 in this litigation.

86. Attached as Exhibit 78 is a true and correct copy of SEC-SASON-004455596, which was produced by the SEC in this case.

87. Attached as Exhibit 79 is a true and correct copy of SEC-SASON-004456304, which was produced by the SEC in this case.

88. Attached as Exhibit 80 are compiled excerpts from the transcript of the investigative testimony of James McDade, which was taken by SEC staff on March 28, 2017 in the investigation preceding this litigation, and which was produced by the SEC in this case.

89. Attached as Exhibit 81 is a true and correct copy of SEC-SASON-004408935 through SEC-SASON-004408936, which was produced by the SEC in this case.

90. Attached as Exhibit 82 is a true and correct copy of SEC-SASON-000272839, which was produced by the SEC in this case.

91. Attached as Exhibit 83 is a true and correct copy of Schedule 13G, Amendment No. 2, of NewLead Holdings Ltd. dated June 30, 2014, which was downloaded from the SEC's EDGAR service on June 13, 2022.

92. Attached as Exhibit 84 are true and correct excerpts of the transcript for the deposition of Perian Salviola, which was taken by SEC staff on May 6, 2021 in this litigation.

93. Attached as Exhibit 85 are true and correct excerpts of the transcript for the deposition of Kautilya Sharma, which was taken by SEC staff on April 28, 2021 in this litigation.

94. Attached as Exhibit 86 are true and correct excerpts of the transcript for the deposition of Michael Karsch, Esq., which was taken by SEC staff on January 22, 2021 in this litigation.

95. Attached as Exhibit 87 is a true and correct copy of SEC-SASON-000280741 through SEC-SASON-000280772, which was produced by the SEC in this case.

96. Attached as Exhibit 88 are true and correct copies of SEC-SASON-000280698-000280702, SEC-SASON-000280732-000280735, SEC-SASON-000280736-000280740, SEC-

SASON-000280506-000280514, and SEC-SASON-000280664-000280677, which were produced by the SEC in this case.

97. Attached as Exhibit 89 is a true and correct copy of SEC-SASON-000305740 through SEC-SASON-000305754, which was produced by the SEC in this case.

98. Attached as Exhibit 90 is a true and correct copy of SEC-SASON-000071050 through SEC-SASON-000071052, which was produced by the SEC in this case.

99. Attached as Exhibit 91 is a true and correct copy of SEC-SASON-004620285, which was produced by the SEC in this case.

100. Attached as Exhibit 92 is a true and correct copy of SEC-SASON-005120028, which was produced by the SEC in this case.

101. Attached as Exhibit 93 are true and correct copies of SEC-SASON-004483385 and SEC-SASON-004615325, which were produced by SEC in this case.

102. Attached as Exhibit 94 is a true and correct copy of SEC-SASON-005148945, which was produced by SEC in this case.

103. Attached as Exhibit 95 are true and correct copies of SEC-SASON-004494733 and SEC-SASON-004494734, which were produced by the SEC in this case.

104. Attached as Exhibit 96 is a true and correct copy of SEC-SASON-000000963, which was produced by SEC in this case.

Executed on: June 17, 2022

/s/ Marjorie J. Peerce

Marjorie J. Peerce